

REMARKS

Claims 1, 2, 8 and 9 have been amended to the elected species a) a herbicidally effective amount of a compound of formula I and b) an amount, which is effective for antagonism of the herbicide, of a safener of formula IIa.

Claims 8-10 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the word "grass" in claim 8 is not found in the specification.

Claim 8 recites "A method of selectively controlling weeds and **grasses** in crops of useful plants...." This same language is found in the specification as originally filed at page 1, lines 1 and 2, where it states "The present invention relates to new herbicidal compositions for controlling **grasses** and weeds in crops of useful plants...."

Withdrawal of the rejection under 35 U.S.C. §112, first paragraph is respectfully requested.

Claims 1-12 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Tobler et al., Devine et al. and Kruger et al. The Examiner states that the references cited teach the combination of the herbicides and safeners which embraces the presently claimed invention.

The Tobler et al. reference relates to the safening of various herbicides by means of certain safeners. The **safeners** described in this reference are **different** from those mentioned in the present application with regard to their chemical structure.

The Devine et al. reference mentions **safeners** which are **different** from those mentioned in the present application with regard to their chemical structure. (The inventively used safeners are "young" safeners, those referred to in Devine are "old" ones.)

The Kruger et al. reference describes **herbicides** of a chemical structure which are similar to the structure of the inventively used herbicides. (The carbocyclic ring formed by the referential substituents A and B is different from the ring formed by the inventively used substituents R4 and R5, which contains an oxygen atom.) **No safeners** are mentioned in the Kruger et al. reference.

It is clear that these references - taken alone or in combination - fail to render the claimed combination of herbicide and safener obvious, as no teaching is provided to exchange the prior art safeners for the inventively used ones of the present invention in order to arrive at the inventive combinations. In this connection, also please refer to the teaching given on the first page of the present specification, second paragraph, lines 8 to 12, where it is stated that "**..... a particular safener is often suitable only for a particular cultivated plant and a particular class of herbicidal substance or a particular herbicide.**" This means that there is no basis for a general


concept that teaches that every safener (for example those mentioned in the present application but not mentioned in the art cited) is a safener for every herbicide. It appears that the Examiner in this case is applying such an incorrect concept. In contrast to this, a safening effect **cannot be predicted**. For example, a safener "A" which is known to safen a given herbicide is often unable to safen a different herbicide. This is what is determined in field trials; as is known in the art.

In other words, it cannot be concluded that the finding of a safening effect of safener "A" in view of the given herbicide is also found in view of a second herbicide. Such a finding is unpredictable, surprising and thus inventive. As stated by the Examiner (page 5, last sentence), "the safening effect is very specific and changes with the structure of the compound and herbicide used."

Withdrawal of the rejection of claims 1-12 under 35 U.S.C. §103(a) is respectfully requested. Early and favorable issuance of a notice of allowability is hereby requested.

Respectfully submitted,

Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409
(336) 632-7586



Rose M. Allen
Attorney for Applicant
Reg. No. 35,424

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